

REMARKS

Initially, Applicants thank the Examiner for the courtesies extended during the recent in-person interview. The claim amendments and arguments submitted in this paper are consistent with the amendments and arguments presented during the course of the interview. Accordingly, entry of this amendment and reconsideration of the pending claims is respectfully requested.

Claims 1-17 were rejected under 35 U.S.C. § 102(e) as being anticipated by *Sutler* (U.S. Pat. Pub. No. 2005/0102383), hereinafter *Sutler*.¹

By this amendment claims 1, 13 and 17 have been amended.² No claims have been added or cancelled. Accordingly, claims 1-17 are pending, of which claims 1, 13 and 17 are the only independent claims at issue.

As discussed during the interview, the present invention is generally directed to designing a system that includes a computer application hosted on a hosting environment. For example, claim 1 defines during development phase of the system via the computer system, modeling a particular hosting environment including configuring hosting environment settings for the particular hosting environment and identifying one or more device-specific constraints that are imposed by the hosting environment on prospective applications to be hosted on the particular hosting environment. Next, claim 1 defines during development phase of the system, modeling a particular application including configuring application settings for the particular application and identifying constraints imposed by the particular application on a prospective hosting environment of the particular application. Lastly, claim 1 defines during development phase of the system, validating the design of the system by comparing the hosting environment settings to the constraints imposed by the particular application and comparing the application settings to the device-specific constraints imposed by the hosting environment.

Applicants respectfully submit that the cited art of record does not anticipate or otherwise render the amended claims unpatentable for at least the reason that the cited art does not disclose, suggest, or enable each and every element of these claims.

35 U.S.C. 102 and 103 Rejections

As discussed during the interview, *Sutler* describes “a method for discovering software applications in a networked environment,” (par. [0009]). *Sutler*’s method includes retrieving

¹ Although the prior art status of the cited art is not being challenged at this time, Applicant reserves the right to challenge the prior art status at any appropriate time, should it arise. Accordingly, any arguments and amendments made herein should not be construed as acquiescing to any prior art status of the cited art.

² Support for the amendments to the claims is found throughout the specification and previously presented claims, including but not limited to paragraphs [0004], [0005], [0021], [0027] and Figures 2-6.

application fingerprints, scanning a host machine for attributes that match those in the application fingerprints and determining, based on the scan, whether the host machine has any of the fingerprinted applications installed (pars. [0007], [0009], [0028] and [0030]). *Sutler* also describes the use of a management console “which provides a user with means to manage the discovered software applications (par. [0010]). The management console may be provided in a user interface and may be used to monitor and/or manage the software applications identified during the scan (par. [0047]). The management console may allow a user to launch an application, monitor an application, define a condition for triggering an alert on the management console, initiating backup of files for the application, as well as other tasks (*Id.*). The management console may also allow a user to define the bounds of the searched network environment by including or excluding selected host machines (*Id.*).

However, all of the operations performed in *Sutler* are performed on applications that have already been developed and released. *Sutler* searches computer systems for already-installed applications and provides a management console that allows a user to manage the detected applications. *Sutler* does not perform any operations during a development phase of the applications. Moreover, *Sutler*’s system and methods would not work prior to installation of the applications at each system.

Accordingly, for at least any of these reasons, and as agreed to during the interview, *Sutler* fails to teach or suggest “during development phase of the system via the computer system, modeling a particular application including configuring application settings for the particular application and identifying constraints imposed by the particular application on a prospective hosting environment of the particular application,” as recited in combination with the other limitations of claim 1. Moreover, at least for any of the same reasons, *Sutler* fails to teach or suggest “during development phase of the system, validating the design of the system by comparing the hosting environment settings to the constraints imposed by the particular application and comparing the application settings to the device-specific constraints imposed by the hosting environment,” as recited in combination with the other limitations of claim 1.

Accordingly, at least for the reasons outlined above, claim 1 patentably defines over the art of record. At least for any of these reasons, claims 13 and 17 also patentably define over the art of record. Since each of the dependent claims depend from one of claims 1, 13 and 17, each of the dependent claims also patentably define over the art of record for at least any of the same reasons.

35 U.S.C. 101 Rejections

Claims 1-12 were rejected under 35 U.S.C. § 101 for reciting non-statutory subject matter. Claim 1 has been amended to include a processor and system memory. Applicants submit that this language causes claim 1 (and its corresponding dependent claims 2-11) to recite a tangible embodiment. Accordingly, Applicants respectfully request that the 35 U.S.C. § 101 rejection of claims 1-12 be withdrawn.

In view of the foregoing, Applicant respectfully submits that the other rejections to the claims are now moot and do not, therefore, need to be addressed individually at this time. It will be appreciated, however, that this should not be construed as Applicant acquiescing to any of the purported teachings or assertions made in the last action regarding the cited art or the pending application, including any official notice. Instead, Applicant reserves the right to challenge any of the purported teachings or assertions made in the last action at any appropriate time in the future, should the need arise. Furthermore, to the extent that the Examiner has relied on any Official Notice, explicitly or implicitly, Applicant specifically requests that the Examiner provide references supporting the teachings officially noticed, as well as the required motivation or suggestion to combine the relied upon notice with the other art of record.

In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney at (801) 533-9800.

Dated this 24th day of September, 2009.

Respectfully submitted,

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